

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT CHATTANOOGA**

**JUDY W. WATSON,  
Personal Representative of the ESTATE OF  
TIFFANY HOPE WATSON, deceased, and  
Guardian of AVA-MARIA JADE ALEJANDRO,  
Daughter of deceased  
426 Sands Road  
Sweetwater, Tennessee 37874**

**Plaintiff**

**v.**

**DOCKET NO. \_\_\_\_\_  
*Jury Trial Demanded***

**BURKE & SONS, INC.,  
a Georgia Domestic Profit Corporation  
by and through its Registered Agent:  
Taylor Burke  
410 Hills Crossing Road  
Post Office Box 1956  
Clarkesville, Georgia 30523; and**

**FRANK SCOTT JOHNSON  
500 Red Hill Lane  
Toccoa, Georgia 30577**

**Defendants**

**COMPLAINT FOR DAMAGES**

The Plaintiff, Judy W. Watson, as Personal Representative of the Estate of Tiffany Hope Watson, deceased, and Guardian of Ava-Maria Jade Alejandro,

daughter of deceased, files her Complaint for Damages against the Defendants, Burke & Sons, Inc. and Frank Scott Johnson, for damages sustained in an automobile crash which occurred on August 22, 2017 in McMinn County, Tennessee, and respectfully states as follows:

## **I. PARTIES**

1. Plaintiff, Judy W. Watson, Personal Representative of the Estate of Tiffany Hope Watson, deceased and Guardian of Ava-Maria Jade Alejandro, daughter of deceased, is a resident of Monroe County, Tennessee, residing at 426 Sands Road 297, Sweetwater, Tennessee.
2. Defendant, Burke & Sons, Inc., is a Georgia domestic profit corporation with its principal place of business at 410 Hills Crossing Road, Clarkesville, Georgia, with Taylor Burke, as Registered Agent and its address for service of process is 410 Hills Crossing Road, Clarkesville, Georgia 30523.
3. Defendant, Frank Scott Johnson was contracted to haul as a commercial carrier for Defendant Burke & Sons, Inc., and is a resident of Stephens County, Georgia, residing at 500 Red Hill Lane, Toccoa, Georgia.
4. This action arises from the personal injury sustained by the Plaintiff, Tiffany Hope Watson, caused by the negligence of the Defendants, Burke & Sons, Inc. and Frank Scott Johnson.

5. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332, based on diversity of citizenship of the parties. The Plaintiff is domiciled in the State of Tennessee but the Defendant is domiciled in the State of Georgia. The amount in controversy, exclusive of interest and costs, exceeds Seventy-Five Thousand Dollars (\$75,000.00).
6. Venue of this action lies in the Eastern District of Tennessee by virtue of 28 U.S.C. § 1391(a).

## **II. FACTUAL BACKGROUND**

7. On August 2, 2017 at approximately 9:40 a.m., decedent Tiffany Hope Watson was operating a 2006 Honda Pilot and traveling south on North Congress Parkway approaching its intersection with Lawn Street in Athens, Tennessee.
8. At the same time, Defendant, Frank Scott Johnson, owner and operator of a 2015 Peterbilt tractor with attached flatbed trailer, had been traveling south on North Congress Parkway and was attempting to make a left turn onto Lawn Street. Mr. Johnson stopped to wait for oncoming northbound traffic to clear before proceeding with the left turn. The Peterbilt tractor was stopped in the designated crossover section between the northbound and southbound lanes of North Congress Parkway, and the attached flatbed

trailer remained in the southbound median lane of North Congress Parkway, blocking this lane of travel.

9. As she crested the roadway grade of southbound North Congress Parkway, decedent, Tiffany Hope Watson was unable to perceive that the Defendant's tractor trailer was stopped and blocking her lane of travel while attempting to turn left onto Lawn Street. As a direct result, the decedent violently struck the right rear corner of the Defendant's flatbed trailer causing fatal injuries.

### **III. CAUSE OF ACTION**

10. At all times material, Frank Scott Johnson, the Defendant truck driver, was in the course and scope of his employment as a commercial carrier with Burke & Sons, Inc.
11. At the time of this crash, the Defendant Johnson failed to make a safe and proper left turn with 2015 Peterbilt and flatbed trailer, thereby blocking the median lane of southbound North Congress Parkway. At the time of the collision alleged herein, there were certain statutes in effect in the State of Tennessee controlling the actions of a truck driver. Specifically, the following statutes govern the conduct of the truck driver in the operation of the 2015 Peterbilt:

- a. Tennessee Code Annotated §55-8-140 *Turning*
- b. Tennessee Code Annotated §55-8-141 *Turning; curves; crest of grade*
- c. Tennessee Code Annotated §55-8-142 *Turning; procedure*
- d. Tennessee Code Annotated §55-8-154 *Minimum speed limits*
- e. Tennessee Code Annotated §55-8-158 *Stopping or parking on roadways*

- 12. The Defendant truck driver failed to conform the operation of the 2015 Peterbilt to the duties imposed by the statutes alleged in the preceding paragraph.
- 13. The Defendant's failure to adhere to the statutes alleged in the preceding paragraph constitutes negligence, per se.
- 14. The Defendant truck driver was under a common law duty to exercise due care which was reasonable and prudent. Additionally, Defendant failed to keep a proper lookout under the existing circumstances and failed to use reasonable care to avoid the collision.
- 15. The Defendant truck driver was negligent in the operation of the 2015 Peterbilt truck in that he:
  - a. Failed in his duty to drive with reasonable care, considering the condition of the roadway;
  - b. Failed to keep the 2015 Peterbilt truck under reasonable control;

- c. Failed to keep a proper lookout under the existing circumstances;
- d. Failed to see and be aware of what was in his view;
- e. Failed to use reasonable care to avoid an accident;
- f. Failed to obey the traffic laws of the State of Tennessee; and
- g. Failed to follow safe driving practices and defensive driving practices and to operate a commercial vehicle in accordance with the laws of the State of Tennessee.

**16. The Defendant, Burke & Sons, Inc. was negligent in:**

- a. Failing to adequately and thoroughly investigate the background of the truck driver to determine his work history, his training as a truck driver, his history regarding accidents, his reasons for leaving previous employment, adequately screening references before hiring him and allowing him to operate a commercial vehicle on the roadways;
- b. Failing to ensure the truck driver was knowledgeable regarding driver safety rules, rules of the road, and knowledgeable and aware of the rules of Burke & Sons, Inc., and the rules for defensive driving;
- c. Failing to have properly trained personnel to set up training programs for drivers of commercial vehicles, to have adequate training for a specific task, and to have adequate training of drivers in defensive driving; and
- d. Failing to have adequate control of its drivers and to have an adequate safety control program in place.

By operating a commercial vehicle in the State of Tennessee, Burke & Sons, Inc. is regulated by the Federal Motor Carrier Safety Regulations (FMCSR), and must comply with the provisions of the FMCSR pursuant to

**Tennessee Code Annotated** §65-2-102 and §65-15-101 et seq. Burke & Sons, Inc. failed to comply with the provisions of the FMCSR and the failure to comply with these specific provisions is negligence, per se. The truck driver failed to operate a commercial vehicle in accordance with the laws, ordinances and regulations of the jurisdiction in which it was being operated in violation of §49 **C.F.R.** 392.2 of the FMCSR.

17. On August 22, 2017, the truck driver, Frank Scott Johnson, was operating a 2015 Peterbilt truck, VIN #1NPXGGG70D361944, South Carolina vehicle license #P745689. The truck was being operated as a commercial motor vehicle and was subject to the provisions of the FMCSR because of the gross vehicle weight of this 2015 Peterbilt. The Defendant, Burke & Sons, Inc. was negligent in entrusting its commercial motor vehicle to Frank Scott Johnson, the truck driver.

#### **IV. DAMAGES**

18. As a proximate result of the collision caused by the negligence of the Defendant, Frank Scott Johnson, the decedent, Tiffany Hope Watson, sustained injuries that were fatal. The Estate of Tiffany Hope Watson has incurred significant expenses for the funeral, burial and other final expenses,

conscious pain and suffering and for loss of the pecuniary value of the life of Tiffany Hope Watson, including loss of earning capacity.

19. Additionally, Tiffany Hope Watson died on August 22, 2017 and was thirty-nine (39) years old at the time of her death. Ms. Watson provided love, affection, attention, guidance, care, companionship and cooperation to her child, and provided financial and other support, which the child has been deprived of in the past and will continue to be deprived of in the future.
20. The Plaintiff reserves the right to file amended complaints to include specific allegations of violations of the FMCSR once discovery has been completed in this case. In addition, the Plaintiff reserves the right to amend the Complaint to state a specific amount of damages once all discovery has been completed.

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully requests that compensatory damages be awarded in a sum the jury feels is appropriate. The Plaintiff also request the costs of this action be adjudged against the Defendants.

Respectfully submitted, this 20<sup>th</sup> day of October, 2017.

s/ W. Holt Smith  
W. Holt Smith BPR #004557  
209 Tellico Street North  
Madisonville, Tennessee 37354  
Phone: (423) 442-4012  
Fax: (423) 442-1038  
E-mail: [whs4849@bellsouth.net](mailto:whs4849@bellsouth.net)



s/ John W. Cleveland, Sr.

John W. Cleveland, Sr. BPR #005829

120 West Morris Street

Sweetwater, Tennessee 37874

Phone: (423) 337-2111

Fax: (423) 337-2121

E-mail: [johnwcleveland@gmail.com](mailto:johnwcleveland@gmail.com)